FARAD CONTINUATION SHEET NO.
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.540 OF 2006

| Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders. | Court's or Judge's orders. |
|---|---|

Mr.S.A.Malkani for the Applicants.
Mr.S.R.Shinde, APP. for the State.

**CORAM : R.S. MOHITE,J.**
**DATED : 20/3/2006.**

**P.C.**

1. This is an application impugning an order dated 10.11.2005 by which non bailable warrant has been issued against the applicant. Normally speaking such an application would not have been entertained as the non bailable warrant could have been got cancelled. However, in my order dated 22.2.2006, I had recorded the statement of the advocate for the petitioner that since his client was not well, trial would be proceeded in his absence and the statement U/s. 313 would be recorded through his advocate. I had

directed that his statement should be placed before the court in the form of an undertaking and on this footing I had directed that the non bailable warrant should not be executed. I find that the affidavit has been filed by the advocate appearing for the applicant undertaking to appear before the trial court and proceed with the matter in absence of the applicant. Undertaking further states that the statement of the applicant would be recorded through the advocate who has filed the affidavit. When I had asked for an undertaking to be given by the applicant, I find that the undertaking is filed by the advocate for the applicant. The undertaking filed in this court by the Advocate for the applicant cannot be binding on the applicant. In the circumstances, I am not inclined to entertain this application and the application is dismissed. There will be liberty to the applicant to apply before the trial court for cancellation of non bailable

warrant and if such an application is made, the same may be decided after considering the medical condition of the applicant. Interim relief granted to continue for a period of one week from today to enable the applicant to apply for cancellation of non bailable warrant.

**(R. S. MOHITE, J.)**